

-- REMARKS --

The present remarks reply to a Non-Final Office Action, dated October 31, 2002. Claims 1-23 as originally filed are currently pending in the present application. The Applicant amended claims 15, 19, 21 and 23 to more particularly point out and distinctly claim the invention in accordance with 35 U.S.C. § 112, ¶2.

In the Non-Final Office Action, Examiner Williams rejected and objected to pending claims 1-23 on various grounds. The Applicants respond to each ground of rejection and objection as subsequently recited herein, and respectfully requests reconsideration and further examination of the present application under 37 CFR § 1.112:

- A. Claims 1-3, 5-8, 12, 13, 16, 17, 20 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,788,028 to *Bieber*.

The Applicants have thoroughly considered Examiner Williams's remarks concerning the patentability of independent claims 12, 13, 16, 17, 20 and 21 over *Bieber*. The Applicants have also thoroughly read the *Bieber* patent. To warrant this anticipation rejection, *Bieber* must show each and every element set forth in independent claims 12, 14, 16, 17, 20, and 21 in as complete detail as is contained in independent claims 12, 14, 16, 17, 20, and 21. See, MPEP §2131. The Applicants respectfully traverse this anticipation rejection of independent claims 12, 14, 16, 17, 20, and 21, because Examiner *Bieber* fails to disclose, teach or suggest:

1. "generating a second operating current as a product of the first operating current and the scale factor" in as complete detail as is contained in independent claims 12.
2. "determining a scale factor and an offset value as a function of an operating temperature of the damper and a relative velocity of the damper" and "providing a second operating current to the damper in response to a

determination of the scale factor and the offset value" in as complete detail as is contained in independent claims 13.

3. "a second module operable to determine a scale factor as a function of an operating temperature of the damper and to generate a second operating current as a product of the first operating current and the scale factor" in as complete detail as is contained in independent claims 16.

4. "a second module operable to determine a scale factor and an offset value as a function of an operating temperature of the damper and a relative velocity of the damper, said second module is further operable to provide a second operating current to the damper in response to a determination of the scale factor and the offset value" in as complete detail as is contained in independent claims 17.

5. "wherein said controller is operable to generate the first operating current as a product of the second operating current and the scale factor" in as complete detail as is contained in independent claims 20.

6. "wherein said controller is operable to determine a scale factor and an offset value as a function of an operating temperature of the damper and a relative velocity of the damper", and "wherein said controller is operable to provide the first operating current to the damper in response to a determination of the scale factor and the offset value" in as complete detail as is contained in independent claims 21.

Specifically, *Bieber* discloses and claims a generation of a shock absorber control signal by a compensation of a first signal indicative of a desired damping level

for a shock absorber in accordance with a third signal that is a scale factor indicative of a temperature compensation factor based on an estimated temperature of the shock absorber. See, Bieber at column 2, lines 3-6; and column 5, line 58 to column 6, line 2. A review of *Bieber* clearly reveals that *Bieber* fails to disclose, teach or suggest how the first signal is compensated in accordance with the third signal. This failure is so absolute that the Applicants fail to understand how *Bieber* legally satisfied 35 U.S.C. §112, ¶1 as related to a written description concerning how the first signal is compensated in accordance with the third signal. The Applicants therefore respectfully assert that *Bieber* does not disclose, teach or suggest a generation of the shock absorber control signal as "a product of the first operating current and the scale factor" as recited in independent claims 12 and 16, and "a product of the second operating current and the scale factor" as recited in independent claim 20.

Additionally, *Bieber* discloses a generation of a temperature compensation factor (i.e., a scale factor) based exclusively on an operating temperature of the shock absorber. See, Bieber at column 4, lines 32-35. A review of *Bieber* clearly reveals that *Bieber* fails to disclose, teach or suggest the generation of any additional variables based on an operating temperature of the shock absorber. Moreover, *Bieber* fails to disclose, teach or suggest the utilization of a relative velocity of the shock absorber in generating the temperature compensation factor. Please note that FIG. 4B of *Bieber* is a compilation of the force-velocity curves illustrated in FIGS. 3A-3C of the present application, and is not related in any manner to the offset curves 472a-472c illustrated in FIG. 8A of the present application. The Applicants therefore respectfully assert that *Bieber* does not disclose, teach or suggest both "a scale factor and an offset value as a function of an operating temperature of the damper and a relative velocity of the damper" as recited in independent claims 13, 17 and 21.

The Applicants respectfully request a withdrawal of the rejection of independent claims 12, 13, 16, 17, 20 and 21 under 35 U.S.C. §102(b) as being anticipated by *Bieber*.

- B. Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,788,028 to *Bieber* in view of U.S. Patent No. 5,396,973 to *Schwemmer* et al.

The Applicants have cancelled dependent claim 4 herein without prejudice or disclaimer to the subject matter of dependent claim 4. Withdrawal of the rejection of dependent claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Bieber* in view of *Schwemmer* is respectfully requested.

- C. Claims 9-11, 14, 15, 18, 19, 22 and 23 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

The Applicants have cancelled claims 9-11 herein without prejudice or disclaimer to the subject matter of claims 9-11. The Applicants have added claims 29-31 having limitations directed to the subject matter of cancelled claims 9-11 deemed allowable by Examiner Williams. Thus, the Applicants respectfully requests an allowance of independent claim 29 and claims 30-34 depending on claim 29.

The Applicants have respectfully asserted herein that independent claims 13, 17 and 21 are allowable over *Bieber*. The Applicants therefore have not rewritten claims 14 and 15 in independent form including all of the limitations of independent claim 13, claims 18 and 19 in independent form including all of the limitations of independent claim 17, and claims 22 and 23 in independent form including all of the limitations of independent claim 21. The Applicants however reserve the right to rewrite claims 14 and 15 in independent form including all of the limitations of independent claim 13, claims 18 and 19 in independent form including all of the limitations of independent claim 17, and claims 22 and 23 in independent form including all of the limitations of independent claim 21 upon any further rejections of independent claims 13, 17 and 21.

SUMMARY

Examiner Williams's 35 U.S.C. §102(b) and §103(a) rejections have been obviated by the above the cancellation herein of claims 1-11 and the remarks herein relating to the patentability of claims 12-23. The Applicants respectfully submits that claims 12-34 fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing amendments and remarks, favorable consideration and early passage to issue of the present application are respectfully requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

15. (AMENDED) The method of claim 13, further comprising:
generating a third operating current as a summation of the first operating current and the offset value; and
generating the second operating current as a product of the third operating current and the scale factor.
19. (AMENDED) The device of claim 17, wherein
said second module is further operable to generate a third operating current as a summation of the first operating current and the offset value, and
said second module is further operable to generate the second operating current as a product of the third operating current and the scale factor.
21. (AMENDED) A system, comprising:
a damper operable to provide a damping force in response to a reception of a first operating current; and
a controller,
wherein said controller is operable to generate a second operating current as a function of a desired force level of the damping force,
wherein said controller is operable to determine a scale factor and an offset value as a function of an operating temperature of the damper and a relative velocity of the damper, and
wherein said controller is operable to provide the first operating current to the damper in response to a determination of the scale factor and the offset value.

23. (AMENDED) The system of claim 21, wherein
said controller is further operable to generate a third operating current as a
summation of the second operating current and the offset value, and
said controller is further operable to generate the first operating current as a
product of the third operating current and the scale factor.